

The 18th November, 1986

No. 9/9/86-6Lab/10003.—In pursuance of the provisions of section 17 of the Industrial Disputes Act 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Swastika Finishing Mills, G. T. Road, Panipat : —

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD

Reference No. 10/1984

between

SHRI RAM MURTI, WORKMAN, C/O D. P. PATHAK, 754, PANCHRANGA BAZAR,
PANIPAT AND THE MANAGEMENT OF M/S SWASTIKA FINISHING
MILLS, G. T. ROAD, PANIPAT.

Present :

Shri D. P. Pathak, Authorised Representative for the workman.

Shri Surinder Kaushal, for the management.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, (hereinafter referred to as the Act), the Governor of Haryana referred the following dispute between Shri Ram Murti workman and the management of M/s. Swastika Finishing Mills, G. T. Road, Panipat to this Tribunal for adjudication : —

Whether the termination of service of Shri Ram Murti was justified and in order ? If not, to what relief is he entitled ?

2. After receipt of order of reference, notices were issued to the parties. The parties put in appearance.

The case of the petitioner is that he was working with M/s Swastika Finishing Mills, G. T. Road, Panipat on monthly wages of Rs. 340 and his services were terminated on 22nd July, 1982 without any notice or chargesheet or enquiry. He prayed for reinstatement with all back wages.

3. The management controverted the stand of the petitioner. It was pleaded that the petitioner joined service on 1st August, 1981 and he along with other workers was served with notice for retrenchment due to adverse market conditions. Notice was issued on 22nd June, 1982 and after expiry of the period of notice, the petitioner was paid retrenchment compensation and legal dues on 22nd July, 1982. It was then pleaded that retrenchment was effected after compliance of Section 25-F and retrenchment is in order. Besides this plea was taken that reference is not maintainable in the present form.

4. The petitioner in his replication pleaded that the provisions of Section 25-F of the Act have not been complied with in his case in as much as no compensation was given to him.

5. On the pleadings of the parties, the following issues were framed by Shri R. N. Batra, the then Presiding Officer, Industrial Tribunal, Haryana, Faridabad : —

(1) Whether the reference is bad in law ? OPM

(2) Whether the claimant was retrenched as per rules and he received the dues ? OPM

(3) Whether the termination of service of Shri Ram Murti was justified and in order ? If not, to what relief is he entitled ? OPM

6. I have heard Shri Surinder Kaushal, Authorised Representative for the management and Shri D. P. Pathak, learned Authorised Representative of the workman and gone through the record. My findings on the aforesaid issues are as under : —

Issue No. 1

7. This issue was not pressed. It has not been shown as to why the reference is bad in law. Hence this issue is answered against the Management.

Issue No. 2.

8. Ram Murti workman WW-1 has deposed that his services were terminated in the year 1983 and after termination of his services, 4/5 workers have been employed. He stated that no compensation was paid to him at the time of termination of his services. He claimed that the Management had not given him any notice for re-employment.

8. On the other hand Dev Raj Manager, MW-1 of the respondent factory, deposed that the claimant was unskilled workman. He was retrenched alongwith other workers and notice Ex. M-1 was served upon him on 22nd June, 1982. He also proved the copy of seniority list of unskilled workers and the said seniority list is Ex. M-2. The name of Ram Murti figured therein at serial No. 17. Dev Raj stated that this seniority list was displayed on the notice board. He also stated that retrenchment compensation was paid after the expiry of period of notice and provided receipts Ex. M-4 to M-7 and writing Ex. M-3 which is admission of the workmen about receipt of compensation.

10. This is a case of retrenchment of a workman. There is nothing on record to show that the decision of an employer to retrench its workmen was motivated by victimisation and in labour practice. The retrenchment was effected due to adverse market conditions. The ordinary industrial rules of retrenchment is 'last come, first go' and this principle was followed by the employer for effected retrenchment. Not only this, compliance of Section 25-F of the Act was also made before effecting the retrenchment. Notice stipulated under Section 25-F(4) of the Act was served on 22nd June, 1982 and the copy of the notice is Ex. M-1. After expiry of one month period as stipulated therein, the retrenchment compensation was paid to the workman. The receipts issued by the workman are Ex. M-4 to M-7. The workman has not denied his signatures thereon in his cross-examination. That apart, the workman gave writing Ex. M-8 to the effect that the retrenchment compensation was received by him. That Ram Murti workman when questioned about his signatures on Ex. M-8, frankly admitted that document Ex. M-8 contained his signatures. Thus it is idle on the part of the workman to contend that no retrenchment compensation was paid to him. It is also come in the evidence of the MW-1 Dev Raj, Manager that notice was also sent to the Government at the time of effecting retrenchment. Thus it is amply established that all the legal formalities for valid retrenchment were duly complied with by the management.

11. The learned Authorised Representative for the workman contended that some workers were employed after retrenchment but no notice was issued to Ram Murti for re-employment and as such retrenchment is vitiated. His argument is devoid of merit. The workman could not tell the name of any person who has been given re-employment after his retrenchment. His statement that 4/5 workers were given employment after termination of his services is vague and cannot be given any weight. There is no material on the record to show that any unskilled workers were employed after retrenchment.

12. In view of the above discussion, I hold that the claimant was retrenched as per rules and that he has received all the dues. The issue is answered accordingly in favour of the management.

Issue No. 3.

13. In view of the valid retrenchment of the services of the claimant, the claimant cannot have any grievance against the termination of his service. Thus the termination of service of Ram Murti is justified and in order.

14. In the result, the claimant is not found entitled to any relief. The reference is answered against him.

The award is passed accordingly.

S. B. AHUJA,

Dated the 20th October, 1986.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 674 dated the 31st October, 1986

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.